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APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO	CONFIRMATION NO
09 866,922	05 30 2001	Jesus Martinez Almela	P 189-153	5165

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EXAMINER

HRUSKOCI, PETER A

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 04 03 2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/866,922

Applicant(s)

ALMELA, JESUS MARTINEZ

Examiner

Peter A. Hruskoci

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 4) ☐ Notice of Informal Patent Application (PTO-152)

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made

2. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pescher et al. in view of Rohrer and Waldmann. Pescher et al. disclose (see col. 2 line 3 through col.4 line 64) a process for treating liquid manure substantially as claimed. The claims differ from Pescher et al. by reciting steps for introducing homogenized liquid manure into a tank, and eliminating liquid from a solid phase by flotation. Rohrer disclose (see col. 3 lines 7-73) that it is known in the art to flocculate liquid manure in a collection tank by thoroughly mixing coagulants such as high molecular weight cationic compounds with the manure. Waldmann disclose (see col. 8 line 41 through col. 9 line 33) that it is known in the art to utilize filtration or air flotation to aid in separation of solids from livestock wastewater that has been flocculated with cationic polyacrylamides. It would have been obvious to one skilled in the art to modify the process of Pescher et al. by utilizing the recited introducing and eliminating steps in view of the teachings of Rohrer

2. it is submitted that the oxidizing agents disclose in Pescher et al. are considered

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patentably indistinguishable from the bactericidal substance. The specific amounts and stirring time utilized, and the specific sequence of addition for the bactericidal substance, would have been an obvious matter of process optimization to one skilled in the art, depending on the specific manure treated and results desired, absent a sufficient showing of unexpected results.

3. Applicant argues that the process of the present invention is not a mere combination of the process according to Pescher et al. with additional known steps from Waldmann et al., since it avoids the treatments with inorganic oxidizing and flocculating agents before the treatment with a polyelectrolyte. It is submitted that treatments with inorganic oxidizing and flocculating agents are not excluded from the instant claims. Furthermore, the bactericidal substance recited in claim 2 would appear to include inorganic oxidizing agents such as chlorine.

4. Applicant alleges that the homogenization of the manure is a very important step which significantly reduces costs, and cuts down on the generation of additional solids valueless by-products, and is not disclosed in any of the cited prior art references. It is submitted that the teachings of Pescher et al. as applied above disclose the addition of oxidizing agents, inorganic flocculating agents, or cationic polyelectrolytes to the manure.

It is also submitted that it is known in the art to flocculate liquid manure in a collection tank by

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thoroughly mixing coagulants such as high molecular weight cationic compounds with the manure. It is submitted that the stirring and mixing utilized in Pescher et al. and Rohrer are considered patentably indistinguishable from the recited homogenization step. Furthermore, applicant has not presented sufficient factual evidence to support the above allegation.

5. Applicant alleges that the instant invention calls for the use of 80-140 ppm of a tertiary or quaternary polyacrylamide, which is the adjusted quantity needed in order to achieve the sufficient flocculation without having excess polyacrylamide and high viscosity in the liquid fraction. It is noted that instant claim 1 is drawn to a polymeric flocculant and not to polyacrylamide. It is submitted that the amount of polymeric flocculant added is included in the range disclosed in Pescher et al. It is further noted that the claims fails to recite a specific amount of polyacrylamide in the liquid fraction or a specific viscosity. Furthermore, applicant has not supplied sufficient factual evidence to support the above allegation.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter A. Hruskoci whose telephone number is (703) 308-3839. The examiner can normally be reached on Monday through Friday from 6:30 AM to 4:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. David Simmons, can be reached on (703) 308-1972. The fax phone number for this Group is (703) 872-9310 (non-after finals) and 703-872-9311 after finals.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

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Peter A. Hruskoci
Primary Examiner
Art Unit 1724

P. Hruskoci
March 31, 2003